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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/603,422	06/26/2000	Karl Haakonsen	11328-006001	2840
26161	7590	04/09/2004	EXAMINER BLACKMAN, ANTHONY J	
FISH & RICHARDSON PC 225 FRANKLIN ST BOSTON, MA 02110			ART UNIT 2676	PAPER NUMBER

DATE MAILED: 04/09/2004

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Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

09/603,422

**Applicant(s)**

HAAKONSEN, KARL

**Examiner**

ANTHONY J BLACKMAN

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 6 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments filed 12/29/03 have been fully considered but they are not persuasive. Examiner respectfully disagrees with applicant's interpretation of the primary reference, MALOOMIAN, US Patent No. 4,602,280, that MALOOMIAN does not disclose or suggest "determining an offset into the video file, the offset corresponding to one of the series of video images" where the series of video images "depicts virtual patient features over a range of said features." The range of values of the offset is controlled by the CPU instructions. "The CPU 18 calculates a horizontal and/or vertical stretch and or shrink factor to be applied to the stored image so that the stored image (column 2, lines 15-34) is reportioned from the present statistics to the desired statistics (column 23, lines 48-51) bears similar results to the recited claim language relating to the offset means. Additionally, figures 1, 2a and 2b disclose offset means. In hopes of expediting prosecution of the instant application, MURATA, US Patent No. 6,348,923 shows that the result of MALOOMIAN's offset means is notoriously well-known. Please refer to figures 17, 18, element 12d, 20, 26a-c, 27a-b. Therefore, the previous office action is repeated because applicant's arguments with respect to claims 1-16 have been considered but do not overcome the disclosure of MALOOMIAN. The rejection from the previous office action is maintained and **this OFFICE ACTION IS FINAL.**

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2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 3-6, 8-11, and 15-16 are rejected under 35 U.S.C. 102(b) as being anticipated by MALOOMIAN.

4. As per claims 1, 6 and 11, examiner interprets MALOOMIAN disclosing a method and computer program product displaying a video image of at least a portion of a virtual patient (fig. 1, fig. 2a and fig. 2b), the method and program comprising:

accessing identification of a video file (fig 1, element 10, col 1, lines 29-35, 40-41, col 2, lines 4-14), the video file comprising a series of video images that depicts the virtual patient features over a range of said features (fig. 1, element 14 and fig 2a and fig 2b); determining an offset into the video file (providing the range of video features- fig 1, element 14, fig 2a and fig 2b, col 1, lines 29-34, 40-43, col 2, line 56-col 3, line 9), the offset corresponding to one of the series of video images (providing the range of video features- fig 1, element 14, fig 2a and fig 2b, col 1, lines 29-34, 40-43, col 2, line 56-col 3, line 9); and presenting the one of the series of video images corresponding to the offset (fig 1, element 14, fig 2a and fig 2b).

5. As per claims 3 and 8, MALOOMIAN meet limitations of claims 1 and 6, including wherein the virtual patient features comprise at least one of the following: age and

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weight (the range of fig 1, element 14, fig 2a and fig 2b disclose the feature of at least weight).

6. As per claims 4, 9 and 15, MALOOMIAN meet limitations of claims 1, 6 and 11, including wherein the video image comprises a video that morphs an image of a virtual patient from slim to heavysset (fig 1, element 14 to fig 2a to fig 2b display the range of the virtual patient from heavysset to slim and also from slim to heavysset. MALOOMIAN teaches a stretch and /or shrink factor as noted in the drawings as well as at least col 1, lines 29-34, col 2, line 56-col 3, line 9).

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 2, 7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over MALOOMIAN, US Patent No. 4,602,280 in view of LINZER, US Patent No. 6,323,914.

9. As per claims 2, 7 and 12 MALOOMIAN meets limitations of claims 1, 6 and 11, however, does not expressly teach limitations of claims 2, 7 and 12 referring to a motion JPEG file, MALOOMIAN teach a video camera means displaying the original image and

the recreated image displayed side by side. Conversely, LINZER teach related video compression (such as MPEG-1, MPEG-2, motion JPEG and DVC) and special effects video generation, such as fades, dissolves, wipes, graphic overlays, etc. (col 1, lines 17-20 and lines 49-58). It would have been obvious to one skilled in the art at the time of the invention to utilize the upgraded video recording camera system including the motion JPEG means, in addition to at least "...another complex special effect is a warping of one frame prior to combination with one or more other frames..." (col 11, lines 20-34) of LINZER to modify the display of a video camera means to provide a series of before and after images of a virtual patient or virtual client as taught by MALOOMIAN (fig 1, element 14 and fig 2a and fig 2b). because both inventions correspond to similar technological environments that warp or shrink and stretch a series of video captured images (image overlaying means).

10. Claims 13-14 are rejected under 35 U.S.C. 103(a) as being unpatentable over MALOOMIAN, US Patent No. 4,602,280 in view of HAYES, Jr., et al, US Patent No. 6,283,858.

11. As per claim 13, MALOOMIAN meets limitations of claim 11, however, does not expressly meet teach virtual patient morphing feature of age. HAYES, Jr. et al, suggests the following feature wherein the virtual patient feature comprises age (figure 2 superimposes coordinate grid on character image and later applies mathematical equations to character's face (or body or image), and col 2, lines 1-12 teach age simulation of a virtual patient). It would have been obvious to one skilled in the art at the time of the invention to utilize the teaching to superimpose a coordinate grid on a

character image and later apply mathematical equations to a character's face (or body or image) simulating changes in age or "...spatially and temporally bounded changes to the first image and the second image which is displayed in the context of the first image (col 2, lines 47-61) as taught by HAYES, Jr., et al to modify the display of a video camera means to provide a series of before and after images of a virtual patient or virtual client as taught by MALOOMIAN (fig 1, element 14 and fig 2a and fig 2b). because both inventions correspond to similar technological environments that provides "A system and method [is] disclosed for manipulating images" (abstract, line 1) and programs which provide a plurality of functions for manipulating various images (HAYES, Jr., et al). Further, HAYES et al discloses mathematical equations enabling geometrical modification of images (the human body or portions of the human body including simulation of cosmetic reconstruction – col 13, lines 10-42).

### ***Conclusion***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to ANTHONY J BLACKMAN whose telephone number is 703-305-0833. The examiner can normally be reached on FLEX SCHEDULE.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MATTHEW BELLA can be reached on 703-308-6829. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9314 for regular communications and 703-746-5731 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.



ANTHONY J BLACKMAN  
Examiner  
Art Unit 2676

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April 4, 2004



MATTHEW C. BELLA  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2600